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BOMBAY ACT No. II OF 1876.

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 26th October, 1876.*)

An Act to amend the law relating to the Land-revenue-administration of the City of Bombay.

Preamble.

WHEREAS it is expedient to amend the law relating to the assessment and collection of the land-revenue, to provide against encroachments upon public

property, to ensure the preservation of survey-boundary-marks, and otherwise to improve the existing land-revenue-administration in the City of Bombay; It is enacted as follows :—

PART I.

PRELIMINARY.

1. This Act may be cited as the Bombay City Land-revenue Act, 1876. It extends only to the City of Bombay. Short title. Extent.

2. So much of Regulation XIX of 1827 as has not been already repealed is hereby repealed. Regulation XIX of 1827 repealed.

All references made in any Act or Regulation to any part of the said Regulation XIX of 1827 hereby repealed shall be read as if made to the corresponding portion of this Act.

And all rules prescribed, appointments made, powers conferred, orders issued, and notifications published under the said Regulation, and all other rules (if any) now in force and relating to any of the matters hereinafter dealt with, shall (so far as they are consistent with this Act) be deemed to have been respectively prescribed, made, conferred, issued and published hereunder.

And all proceedings now pending, which have been commenced under any part of the said Regulation XIX of 1827 hereby repealed shall be deemed to have been commenced under this Act, and shall hereafter be conducted in accordance with the provisions of this Act.

3. In this Act, unless there be something repugnant in the subject or context— Interpretation-clause.

(1) [*Definition of "Collector".*] *Repealed by Bom. Act III of 1886.*

(2) the words "land-revenue" signify any sum of money legally claimable by Government from any person on account of any land, or interest in, or right exercisable over, land held by, or vested in, him, under whatever designation such sum may be payable;

(3) the words "survey-boundary-mark" mean, primarily, any iron or other mark set up by the officers who conducted the Bombay City-survey hereinafter described, and include any such new mark that may hereafter be set up by the Collector or under his orders, according to the provisions of this Act;

(4) the words "superior-holder" signify the person having the highest title under Government to the land in respect of which land-revenue is payable.

PART II.

THE COLLECTOR OF BOMBAY AND HIS SUBORDINATES.

Chief control in revenue matters.

4. The chief controlling authority in all matters connected with the land-revenue is vested in the Collector of Bombay subject to the Governor in Council.

Appointment and duties of Collector of Bombay.

5. The Collector of Bombay shall be appointed by the Governor in Council, and shall exercise the powers and discharge the duties conferred and imposed on him by this Act, or by any other law for the time being in force, and, so far as is consistent therewith, all such other powers or duties as may from time to time be prescribed by the Governor in Council.

His assistants and establishment how appointed;

6. The Collector shall have as many assistants and such other establishment subordinate to him as the Governor in Council, under the general control of the Governor General [a] of India [a] in Council, may from time to time sanction, and their appointment shall be made in such manner as the Governor in Council may direct.

their duties,

The duties of the said assistants and other subordinates of the Collector shall be such as the Collector, subject to the orders of Government, may from time to time prescribe.

and powers.

Subject to the previous sanction of Government, the Collector may delegate any of his powers under this Act, or under any law which the Governor in Council is able to repeal or alter, to any of his assistants or other subordinates, and may at any time cancel such delegation.

Punishment for misconduct.

7. The Collector shall have power, subject to such rules as may from time to time be prescribed by Government, to fine, reduce, suspend or dismiss any of his assistants or other subordinates.

PART III.

ASSESSMENT AND COLLECTION OF LAND-REVENUE.

Collector to fix and levy land-revenue.

8. It shall be the duty of the Collector, subject to the orders of Government, to fix and to levy the assessment for land-revenue.

When there is no right on the part of the superior holder in limitation of the right of Government to assess, the assessment shall be fixed at the discretion of the Collector subject to the control of Government.

When there is a right on the part of the superior holder in limitation of the right of Government, in consequence of a specific limit to assessment

[a-a] These words were substituted for the original words Act XVI of 1895.

having been established and preserved, the assessment shall not exceed such specific limit.

Settlement of assessment with whom to be made.

9. The settlement of the assessment of each portion of land to the land-revenue shall be made with the superior holder of the same.

If the said superior holder be absent and have left no known authorized agent in Bombay, or if there be a dispute as to who is entitled to be considered the superior holder of the land, the settlement may be made with the person actually in possession of the land; and any assessment so fixed shall be binding upon the rightful superior holder of the land.

Any payment made by the person in possession in accordance with the provisions of this Act shall be deemed to have been made on behalf of the superior holder.

Liability for land-revenue.

10. The superior holder of land, or, in his absence, the person actually in possession, shall be liable in person and property for the land-revenue due upon the holding.

Claims of Government to have precedence.

11. The claim of Government to any moneys recoverable under the provisions of this Act shall have precedence over any other debt, demand or claim whatsoever, whether in respect of mortgage, judgment, decree, execution, attachment or otherwise howsoever, against any land, or the superior holder thereof.

Collector to direct to whom and when and where revenue to be paid.

12. Subject to such orders as may be passed by the Governor in Council, the Collector shall from time to time give orders and make known the same by notice to be served on all superior holders of land paying revenue, or, in their absence, persons in possession, regulating the persons, places and times to whom and within which the revenue payable in respect of any land shall be paid.

On default in payment, defaulter's property may be attached and sold.

13. If any land-revenue is not paid at, or within, the time when it becomes payable, and the superior holder or person in possession, as the case may be, shall, for the space of twenty days after service of written notice of demand of payment, fail to discharge the revenue due, it shall be lawful for the Collector to levy the same by attachment and sale of the land on which the revenue is due, or of any other property, moveable or immoveable, of the defaulter.

Sales how held.

Such sales shall be by public auction, and shall not take place until at least fifteen days after notice thereof shall have been published in the Bombay Government Gazette.

Defaulters may be arrested and confined.

If the sale of the defaulter's property shall not produce satisfaction of the demand, it shall be lawful for the Collector to cause him to be apprehended and confined in the civil jail under the rules in force at the Presidency for the confinement of debtors, for which purpose a certificate of demand under the Collector's signature sent with the defaulter shall be the sheriff's sufficient warrant, equally with the usual legal process in ordinary cases of arrest in execution of judgment for debt:

Provided, however, that such imprisonment shall cease at any time upon payment of the sum due, and that it shall in no case exceed one day for each rupee of the said sum.

Collector's decision to be acted on in first instance; but may be stayed on security being furnished.

14. The Collector's decision upon any question arising out of the provisions of sections 8 to 13 [a] shall, unless superseded by the Revenue Judge, be binding upon all persons whom it may concern, and shall be acted upon accordingly; but the Collector's decision shall be stayed on any such person giving security to the satisfaction of the Collector that he will, within thirty days from the date when such decision was made known to him, institute a suit before the Revenue Judge for the purpose of contesting the legality of the Collector's decision, and will fulfil the decree that may be passed against him, and will pay all costs and interests which may be so decreed; or that, if he fail to file such suit as above specified, he will, when required, pay the amount demanded.

Compulsory process to cease on payment under protest, or on instituting suit and furnishing security.

15. All compulsory process against a defaulter shall cease on his paying or tendering the amount demanded of him under protest to the officer executing such process; or

on his instituting a suit before the Revenue Judge to contest the legality of the demand, and furnishing security satisfactory to the Collector or Revenue Judge, that he will, pending the decision of the said suit, neither quit the jurisdiction, nor remove nor transfer any of his property therein, without providing to the satisfaction of the Collector or of the Revenue Judge for the execution of the decree.

Fees in respect of warrant for attachment and sale of defaulter's property. Additional fee.

16. Fees shall be payable according to the table in the Schedule A [a] on all warrants issued under the provisions of section 13 [a] for the attachment and sale of the property of defaulters, by the person in respect of whose property such warrants are issued, and an additional fee of four annas per diem shall be paid in like manner in respect of each peon employed, whenever the property distrained is placed in charge of any peon or peons.

[a] Words repealed by Bom. Act III of 1886 are omitted.

PART IV.

THE REVENUE JUDGE.

17. The Senior Magistrate of Police shall be Revenue Judge. Revenue Judge.

The Revenue Judge shall decide all suits brought before him against the Collector, or any person on his establishment, on account of land-revenue, or of acts done in their official capacities by the Collector, or any of his assistants or other subordinates. Duties and powers.

18. All such suits shall be commenced and the trial thereof shall be conducted according to the provisions of the general law of civil procedure for the time being in force in a District Court. Suits before Revenue Judge how conducted.

An appeal shall lie against a decree passed by the Revenue Judge in any such suit to the High Court on its appellate side, and shall follow the same rules as would be applicable under any law for the time being in force to appeals from the decrees of a District Court in original suits tried by it. Appeals how and to whom to lie.

The decree in any such suit, whether it be that of the Revenue Judge or of the appellate authority, shall, if it be against the Collector, be fulfilled by the Collector. Decrees how executed.

If it be against the plaintiff, it may be enforced by the Collector under section 13 [a] as an established revenue-demand:

Provided, however, that execution shall in either case be stayed if an appeal be made, and on the plaintiff's furnishing security similar to that described in section 15 [a] if the appeal be brought by him.

PART V.

THE BOMBAY CITY-SURVEY AND BOUNDARY-MARKS.

19. The survey made under the authority of Government during the years 1865 to 1872 shall be called "The Bombay City-survey;" and the demarcation of lands then made, and all the records of the said survey, shall be taken as *primâ facie* evidence for all proceedings under and for all the purposes of this Act: Bombay City-survey recognized.

Provided that the Collector may, on the application of the parties interested in such lands, and shall, in pursuance of a decree or order of a competent

[a] Words repealed by Bom. Act III of 1886 are omitted.

Court, cause any alteration or correction to be made of any such demarcation of lands, or of any entry in any such record.

Responsibility for maintenance and repair of boundary-marks.

20. Every superior holder of land shall be responsible for the maintenance and good repair of the survey-boundary-marks of his holding, and for any expenses, not exceeding five rupees for each mark, reasonably incurred on account of the same by the Collector in cases of alteration or removal.

Collector or subordinates may enter upon lands.

21. It shall be lawful for the Collector, or for any of his assistants or other subordinates in that behalf duly authorized by writing under the hand of the said Collector, to enter upon any lands for the purpose of inspecting the survey-boundary-marks erected thereon, or of altering, renewing or repairing such marks.

Collector may require superior holders to renew or repair survey-marks. Requisition how made.

22. In the event of any survey-boundary-mark being destroyed, defaced, injured or removed, it shall be lawful for the Collector to cause to be served on the superior holder, or in his absence the person in possession of any land of which such mark designates the boundary, a requisition in writing signed by the said Collector, calling on such superior holder or person in possession to renew or repair the said mark, at his own expense, within fifteen days from the date of the service of such requisition.

On default, Collector or assistants may enter and renew or repair.

Charge for renewal or repair.

23. If the said survey-boundary-mark be not renewed or repaired, within the said period, to the Collector's satisfaction, it shall be lawful for the Collector or any of his assistants or other subordinates, or other person duly authorized as hereinbefore mentioned, to enter upon any land to which the said mark appertains, and to renew or repair it; and for each such mark so renewed or repaired it shall be lawful for the Collector to charge each superior holder or person in possession, the boundary of whose land is designated by any such mark, such sum, not exceeding rupees ten in the whole, as he may deem fit.

PART VI.

Government Lands and Foreshore.

Rights of Government to lands and foreshore.

24. All unoccupied lands within the city of Bombay, and every unoccupied portion of the foreshore below high-water mark, shall be deemed, and are hereby declared to be, the property of Government, subject always to the rights of way and all other rights of the public legally subsisting.

Such lands and foreshore how disposed of.

25. It shall be lawful for the Collector, with the sanction of Government, to dispose of any Government lands or foreshore, in such manner and subject to such conditions as he may deem fit.

PART VII.

ENCROACHMENTS.

26. In the event of any encroachment being made after the passing of this Act on any Government lands or foreshore, it shall be lawful for the Collector or his assistants, or other subordinates, duly authorized in this behalf by writing under his hand, to summarily abate or remove any such encroachment.

Power to abate encroachments on Government land or foreshore;

But it shall be competent to the Collector, with the previous sanction of Government, and if the person making the encroachment so desire, to charge the said person a sum not exceeding five times the value of the land so encroached upon and to fix an assessment not exceeding five times the ordinary annual land-revenue thereupon, and then to cause the said land to be entered in his records in the name of the said person.

or to charge for and assess land, and then enter it in name of encroacher.

27. For the purposes of the preceding section, the value of land that has been encroached upon shall be fixed by the Collector according to the market-value of similar land in the same neighbourhood at the time of such valuation.

Value and land-revenue how calculated.

And the annual revenue of any such land shall be assessed at the same rate as the land-revenue of similar land in the vicinity.

28. In the case of any encroachment made within twenty years before the passing of this Act, the Collector may, with the sanction of Government, charge the person who made such encroachment, or who is in occupation of the land so encroached upon, a sum not exceeding double the value of the said land, and fix an assessment not exceeding double the ordinary annual land-revenue thereon, and recover arrears of land-revenue at the same rate from the date when the encroachment was made.

Encroachments made before passing of Act how dealt with.

29. For the purposes of the last preceding section, the amount by which any holding shall have been shown by the Bombay City-survey to exceed the area of such holding as entered in the Collector's previous records shall *primâ facie* be held to be an encroachment;

Encroachments before passing of Act defined.

and the value and land-revenue payable in respect of the same shall be calculated according to the market-value of similar land in the neighbourhood, and the land-revenue chargeable in respect of the excess shall be calculated at the same rate at which the rest of the holding has been assessed.

Value and land-revenue payable in respect thereof how calculated.

In case there has been no such holding, the assessment shall be made at such rate as the Collector, with the sanction of Government, may fix.

PART VIII.

TRANSFER OF LANDS, ETC.

Notice of transfer of title to lands, etc., to be given to Collector.

30. Whenever the title to any land, house or other immoveable property, subject to the payment of land-revenue to Government, shall be transferred or assigned, the person transferring or assigning the same, and the person to whom the same shall be transferred or assigned, shall respectively cause notice of such transfer or assignment to be given to the Collector;

Notice when to be given.

such notice shall be given within twenty days after execution of the instrument of transfer or assignment, or after its registration, if it be registered, or after the transfer or assignment is effected, if no instrument is executed.

Transferee by death to give notice within one year.

In the event of the death of any person in whose name the title to any property is entered in the Collector's records, the person to whom such title shall be transferred as heir or otherwise shall cause notice thereof to be given to the Collector within one year from such death.

Form of notice.

31. The notice shall be in the form either of Schedule B or Schedule C [a], as the case may be, and shall state clearly all the particulars required by the said form.

Accompaniments.

It shall be accompanied, whenever the Collector shall deem fit so to require, by the instrument of transfer, if any, and by a certificate that public notice has been given of the transfer or assignment by beat of bataki.

Penalty for neglect to give notice.

32. Every person neglecting to give the notice required by the two last preceding sections within the time therein specified, shall be liable at the discretion of the Collector to a fine not exceeding ten rupees in case of holdings paying less than one rupee as land-revenue, and in no other case exceeding rupees one hundred.

Person transferring title and omitting to give notice to continue liable for revenue.

33. Every person transferring the title to any land, house or other immoveable property subject to the payment of land-revenue to Government, without giving the notice required by sections 30 and 31 [a], shall continue liable to Government for the payment of all land-revenue accruing due in respect thereof, until he shall have given such notice or until the requisite transfer shall have been effected in the Collector's records.

But nothing contained in this section shall be held to diminish the liability of the land, house or other immoveable property to attachment or sale under the provisions of section 13 [a].

Proceeding in case of dispute as to entry or transfer.

34. Whenever any dispute or question shall arise with respect to the making or completion of any entry or transfer in the records of the Collector, of or relating to any land, house or other immoveable property subject to the

[a] Words repealed by Bom. Act III of 1886 are omitted.

payment of land-revenue to Government, the Collector shall summon all the parties interested in such entry or transfer, and shall call for such evidence, and examine such witnesses, as he shall consider necessary, and shall thereupon decide summarily what entry shall be made in his records in respect of such land, house or other immoveable property.

If at any time a certified copy shall be produced to the Collector of an order of a competent Court determining the title to any such land, house or other immoveable property, the Collector shall amend his records in conformity with such order.

Registration or transfer not to affect right of Government.

35. The registration or transfer of any title in the Collector's records shall not be deemed to operate so as in any way to affect any right, title or interest of Government in the land, house or other immoveable property in respect of which any such transfer is made or registered.

PART IX.

PROCEDURE.

Law applied to summonses, etc.

XIV of 1882.

36. The provisions of the Code of Civil Procedure [a] in force for the time being with respect to the issue of summonses and commissions, and the compelling the attendance of witnesses, and for their remuneration, in suits before a District Court, shall apply to all persons summoned to appear before the Collector under the provisions of this Act.

PART X.

LEVY OF HOUSE-RENT, FEES, PENALTIES, ETC.

Dues leviable as revenue-demands.

37. All arrears of rent payable by any person in respect of the occupation of any house the property of Government, and all fees, fines and penalties chargeable under this Act, and all moneys leviable under the provisions of this Act on account of the value of any land, or on account of the alteration,

[a] The reference to Act VIII of 1859 is altered in accordance with Act XIV of 1882, s. 3. (For Act XIV of 1882 see the revised edition, as modified up to 1st July, 1888, published by the Legislative Department.)

removal, renewal or repair of survey-boundary-marks, shall be realized in the same manner as other revenue-demands, under the provisions of section 13 of this Act.

Power to Collector of Bombay to assist other Collectors in realization of dues.

38. It shall be lawful for the Collector of Bombay to levy, in the same way as any arrear of land-revenue due under this Act, any sum certified by the Collector or Assistant or Deputy Collector of any district or collectorate in the Presidency of Bombay to be due and recoverable as an arrear of land-revenue, from any person residing or owning property in the city of Bombay, by whom the same is so certified to be due.

PART XI.

MISCELLANEOUS.

Collector to keep registers and rent-rolls.

39. It shall be the duty of the Collector to prepare and keep in such form as Government may from time to time sanction a separate register and rent-roll of every description of land according to the nature and terms of the tenure on which such land is held.

Maps, land-registers and records where to be kept; to be open to inspection.

Extracts and copies to be given.

40. Subject to such rules and the payment of such fees as the Governor in Council may from time to time prescribe in this behalf, all maps and land-registers, and other records of the Bombay City survey, and all records concerning the land or the land-revenue, shall be kept in the Collector's office, and shall be open to the inspection of the public at reasonable hours; and certified extracts from such maps, registers and records, or certified copies thereof, shall be given to all persons applying for the same.

Power to frame and vary rules for guidance of Collector, etc., and for matters not provided for.

41. It shall be lawful for the Governor in Council from time to time to frame, and from time to time to vary or repeal, rules not inconsistent with the provisions of this Act for the guidance of the Collector and his assistants and other subordinates in the discharge of their duties, or for any other purpose connected with the subject-matter of this Act, not expressly provided for therein.

Any of such rules as the Governor in Council may deem fit may be published, and when published shall, until cancelled or amended by the Governor in Council, have the force of law.

SCHEDULE A.

TABLE OF FEES PAYABLE UNDER THE PROVISIONS OF SECTION 16 OF THIS ACT.

Sum distrained for.	Fee.	
	Rs.	As.
Not exceeding rupees 5	0	8
Over rupees 5 and not exceeding rupees 10	1	0
„ 10 „ „ 15	1	8
„ 15 „ „ 20	2	0
„ 20 „ „ 25	2	8
„ 25 „ „ 30	3	0
„ 30 „ „ 35	3	8
„ 35 „ „ 40	4	0
„ 40 „ „ 45	4	8
„ 45 „ „ 50	5	0
„ 50 „ „ 60	6	0
„ 60 „ „ 80	7	8
„ 80 „ „ 100	9	0
Upwards of rupees 100	10	0

SCHEDULE B.

FORM OF NOTICE OF TRANSFER TO BE GIVEN UNDER SECTION 30 OF THIS ACT, WHEN THE TRANSFER HAS TAKEN PLACE OTHERWISE THAN BY INSTRUMENT.

To

THE COLLECTOR OF BOMBAY.

I, *A. B.*, hereby give notice, as required by section 30 of the Bombay City Land-revenue Act, of the following transfer of property:—

Date of Notice.	Name in which the property is at present entered in the Collector's records.	To whose name it is to be transferred.	DESCRIPTION OF THE PROPERTY.						
			Of what it consists.	Situation.	Collector's No.	Bombay City Survey No.	Dimensions of land.	Boundaries.	REMARKS.

(*Signed*) *A. B.*

SCHEDULE C.

FORM OF NOTICE OF TRANSFER TO BE GIVEN UNDER SECTION 30 OF THIS ACT, WHEN THE TRANSFER HAS BEEN EFFECTED BY INSTRUMENT.

To

THE COLLECTOR OF BOMBAY.

I, *A. B.*, hereby give notice, as required by section 30 of the Bombay City Land-revenue Act, of the following transfer of property:—

Date of notice.	Date of instrument.	Name of vendor or assignor.	Name of purchaser or assignee.	Amount of consideration.	Description of the Property.						If instrument has been registered, the date of registration.	Remarks.
					Of what it consists.	Situation.	Collector's No.	Bombay City Survey No.	Dimensions of land.	Boundaries.		

(*Signed*) *A. B.*

THE MÁMLATDÁRS' COURTS ACT, 1876.

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